



# ***INSIGHTS***

**108<sup>th</sup> Congress**

**April 19, 2004**

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***INSIGHTS*** is prepared expressly for the Department of Energy's Office of Federal Energy Management Programs (FEMP). The purpose of ***INSIGHTS*** is to provide FEMP management staff with timely information on legislative activities relevant to the program. ***INSIGHTS*** is prepared for FEMP by Energetics, Incorporated, (202) 479-2748.

# I. WEEKLY SUMMARY

## CONGRESSIONAL SCHEDULE

Both the House and Senate return this week after a two week and one week recess respectively.

## FY 2005 BUDGET RESOLUTION

The House and Senate are preparing to go to conference on the annual nonbinding legislation, which serves as a framework for establishing FY 2005 appropriations funding levels. The House bill, *H. Con. Res. 393* and the Senate bill, *S. 95* provide \$816 billion and \$820 billion respectively in discretionary spending. The Senate resolution includes the following provision of interest:

**Sec. 404. Scoring Rules. (b) Energy Savings Performance Contract Program** – In recognition that the energy savings performance contract program recoups its costs through guaranteed savings without increasing budgetary outlays, the Congressional Budget Office shall score the energy savings performance contract program under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 801 et seq.) as zero. For the purposes of any point of order under any concurrent resolution on the budget and the Congressional Budget Act of 1974, the cost of the energy savings performance contract program under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 801 et seq.) shall be zero.

No similar provision is included in *H. Con. Res. 393*.

## COMPREHENSIVE ENERGY LEGISLATION

Senate Republican and Democratic leaders have announced a new strategy for moving a bill forward during the coming months. The strategy, which continues to evolve, includes several key components: (1) agreement on the number of amendments to be attached to energy legislation and (2) attachment of the financial provisions to separate legislation. The Democrats have agreed to limit their amendments to 32 and the Republicans have agreed to a total of 50 amendments for debate on the Senate floor. In addition, the financial incentive (e.g. tax credits) portion of the bill will be attached to *S. 1637 - Foreign Sales Corporation/Exterritorial Income*, a “must pass” bill this year as it deals with foreign tariffs on domestically produced products. The \$14 billion financial energy package includes tax incentives for renewable and energy and water efficiency technologies among other technologies. The bill is expected to be addressed by the full Senate sometime in May.

If *S. 1637* is approved by the Senate, Pete Domenici (R/NM), Chairman of the Committee on Energy and Commerce hopes to address the reauthorizing and policy-related provisions of comprehensive energy legislation in conference with the House over the tax bill. However, the House remains steadfast in its determination to oppose an energy bill that does not include MTBE-producer protection from litigation; MTBE is a known a groundwater contaminant. The majority of the Senate opposes the House MTBE provision, which will make conference negotiations difficult.

Meanwhile, Chairman Domenici and his counterpart in the House, Joe Barton (R/TX), Chairman of the Committee on Energy and Natural Resources have been meeting to address their members’ differences over the MTBE issue and expect to meeting again this week. In a recent speech to the American Gas Association, Chairman Domenici said, “Republicans and Democrats alike want the key drivers in this package,” noting that both men continue to be committed to passing an energy bill this year for the

President's signature. In the same speech, he said he still opposes the idea of dividing the bill's key titles into stand-alone bills despite continuing pressure to do so from other members such as Jeff Bingaman (D/NM), Ranking Member of the Committee on Energy and Natural Resources and Maria Cantwell (D/WA) who has introduced a separate bill on electricity reliability.

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## II. COMMITTEE ACTIVITY

### HOUSE

*The House has been on a two-week recess; there are no activities of interest to report.*

### SENATE

*The Senate has been on a one-week recess; there are no activities of interest to report.*

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## III. NEW LEGISLATION

*(Note: Once a new bill is introduced, the Government Printing Office generally requires from several days to one week to make the bill available in print)*

### HOUSE

Number	Short title	Date	Sponsor	Status
<b>H.R. 4165</b>	<b>No Short Title</b>	4/2/04	Nick Smith (R/MI)	Referred to Committee on Ways and Means
	Amends the <i>Internal Revenue Code of 1986</i> , to provide tax incentives to encourage use of biodiesel as fuel.			
	Biodiesel mixture credit is sum of biodiesel mixture rate and number of gallons of mixture.			
	Applicable for taxable years beginning after December 31, 2003.			

## SENATE

Number	Short title	Date	Sponsor	Status
<b>S. 2318</b>	<b><i>National Defense Energy Savings Act of 2004</i></b>	4/8/04	Sue Collins (R/ME)	Referred to Committee on Armed Services
<p><b>NOTE:</b> <i>S. 2318</i> is the companion bill to <i>H.R. 3339 - National Defense Energy Savings Act of 2003</i>, with the exception that <i>H.R. 3339</i> does not establish a transition rule date; <i>S. 2318</i> establishes a date of October 1, 2003.</p> <p>Expands DOD's Energy Efficiency Program required by section 317 of the National Defense Authorization Act of 2002, by authorizing DOD to enter into energy savings performance contracts (ESPC).</p> <p>Authorizes DOD to enter into an ESPC for the sole purpose of achieving energy savings. DOD may incur obligations under the contract to finance energy conservation measures so long as guaranteed savings exceed the debt service requirements.</p> <p>ESPC may be established for a period of up to 25 years.</p> <p>ESPC shall require the contractor to incur costs of implementing energy savings measures, including at least cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for share of any energy savings directly resulting from implementation of such measures during term of contract.</p> <p>ESPC shall require annual energy audit and include terms and conditions of any government payments and performance guarantees. Guarantee shall provide that either government or contractor is responsible for maintenance and repair services for energy related equipment.</p> <p>Aggregate annual payments by DOE to contractor for energy, operations, and maintenance under an ESPC may not exceed amount DOD would have paid for energy, operations and maintenance in absence of contract.</p> <p>Within 90 days of enactment, DOD and Federal Acquisition Regulatory Council shall issue final rules to establish procedures and methods for use by DOD to select, monitor, and terminate ESPCs in accordance with laws governing Federal procurement that will achieve these goals in a cost-effective manner.</p> <p>Establishes implementation procedures and methods.</p> <p>Establishes pilot program for nonbuilding applications. DOD may carry out pilot program to enter into up to 10 ESPCs to achieve energy savings, secondary savings, and benefits incidental to those purposes, nonbuilding applications, which include any class of vehicles, devices or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source and any Federally owned equipment used to generate electricity or transport water.) Within 3 years of enactment, DOD shall submit to Congress a report on progress and results of program.</p>				

Number		Short title	Date	Sponsor	Status
S. 2311		<i>Efficient Energy Through Certified Technologies and Electricity Reliability (EFFECTER) ACT of 2004</i>	4/8/04	Olympia Snowe (R/ME)	Referred to Committee on Finance

#### **TITLE I—TAX INCENTIVES**

Provides energy efficient commercial buildings deduction not to exceed an amount equal to the product of \$2.25 and the square footage of the building.

Provides credit for construction of new energy efficient homes.

Provides credit for certain energy efficient property used in business:

- Elected solar hot water property- \$1.00 per each kwh/year of savings.
- Photovoltaic property - \$4.50 per peak watt.
- Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater - \$150.
- Tier 2 energy-efficient building property - \$900.
- Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater) - \$450.

Provides credit for certain nonbusiness energy property.

Provides energy credit for combined heat and power system property.

Provides credit for energy efficient appliances an amount equal to the sum of the tier I appliance amount, and the tier II appliance amount. The tier I appliance amount is equal to \$100, multiplied by an amount equal to the applicable percentage of eligible production. Tier II appliance amount is equal to \$150, multiplied by amount equal to eligible production.

#### **TITLE II—ENERGY EFFICIENT PRODUCTS**

Establishes energy conservation standards for additional products. Amends *Energy Policy and Conservation Act* regarding energy labeling for products manufactured after January 1, 2007 or the date that is 60 days the final rule is promulgated.

#### **TITLE III—ENERGY EFFICIENCY FEDERAL PROGRAMS**

Revises *Energy Policy and Conservation Act* such that agencies shall procure AN ENERGY STAR® product or a FEMP-designated product. Agency may disregard procurement if an ENERGY STAR® product or FEMP-designated product is not cost-effective over the life of the product taking energy cost savings into account; or no ENERGY STAR® product or FEMP-designated product is reasonably available.

Number	Short title	Date	Sponsor	Status
	<p>Requires agencies to incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating ENERGY STAR® products and for rating FEMP-designated products.</p> <p>Requires that ENERGY STAR® products and FEMP-designated products shall be clearly identified and prominently displayed in any inventory or listing of products by GSA or DLA.</p> <p>Permanently extends energy savings performance contracts. No later than 180 days after date of the enactment, DOE shall review ESPC program to identify statutory, regulatory, and administrative obstacles preventing Federal agencies from fully utilizing the program. Review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including identification of additional qualified contractors, and energy efficiency services covered. DOE shall report findings to Congress and shall implement suggested measures for increased flexibility and effectiveness.</p> <p>Amends <i>Energy Conservation and Production Act</i> to require DOE to establish, by rule, revised Federal building energy efficiency performance standards requiring new Federal buildings to be designed to achieve energy consumption levels at least 30% below current ASHRAE Standard or the International Energy Conservation Code; sustainable design principles are applied to siting, design, and construction of all new and replacement buildings; and where water is used to achieve energy efficiency, water conservation technologies shall be applied to extent they are life-cycle cost effective.</p> <p>Requires each agency's FY budget request include list of all new Federal buildings owned, operated, or controlled by the Federal agency; and statement concerning whether Federal buildings meet or exceed above revised standards.</p> <p><b>TITLE IV—PUBLIC HOUSING</b></p> <p>Amends <i>United States Housing Act of 1937</i> to increase energy efficiency and renewable energy use in public buildings.</p> <p>Establishes grants for energy-conserving improvements for assisted housing.</p> <p>Requires public housing agencies to purchase appliances that are EnergyStar® or FEMP-designated products.</p> <p><b>TITLE V—RELIABILITY STANDARDS</b></p> <p>Electric Reliability Organization (ERO) shall file each reliability standard or modification to a reliability standard that it proposes to be made effective FERC. FERC may approve, by rule or order, proposed reliability standard or modification to a reliability standard if it determines that standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.</p>			

Number	Short title	Date	Sponsor	Status
	<p>ERO shall file with FERC for approval any proposed rule or proposed rule change, accompanied by explanation of its basis and purpose.</p> <p>ERO shall conduct periodic assessments of reliability and adequacy of the bulk-power system in North America.</p> <p>ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.</p> <p>Neither ERO nor FERC may not order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.</p> <p>FERC shall establish a regional advisory body to include 1 member from each participating state in region and representatives of agencies, states, and provinces outside U.S. Regional advisory body may provide advice to Electric Reliability Organization, regional entity, or commission regarding whether a proposed standard is just, reasonable, not unduly discriminatory or preferential, and in public interest, and whether fees proposed to be assessed within region are just, reasonable, not unduly discriminatory or preferential, and in public interest and any other responsibilities requested by commission.</p> <p>Provisions do not apply to Alaska or Hawaii.</p>			

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## IV. ADMINISTRATION INITIATIVES

*No new announcements of interest to report.*

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## V. HEARINGS SCHEDULE

### HOUSE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<b>April 21</b>	Charles Taylor	<b>Hearing –</b>	TBA – Members of Congress	10:00 a.m.
Subcommittee on Interior and Related Agencies	(R/NC))	FY 2005 Budget Request for the Department of Interior (including the National Park Service)		Room B-308 Rayburn Office Building
<b>NEW</b>				

## HOUSE – AUTHORIZATIONS/OVERSIGHT

*No hearings, mark ups, or votes of interest have been scheduled.*

## SENATE – COMMITTEE ON APPROPRIATIONS

*No hearings, mark ups, or votes of interest have been scheduled.*

## SENATE – AUTHORIZATIONS/OVERSIGHT

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/ Location
<b>April 21 –</b>  Subcommittee on Public Lands and Forests  (Committee on Energy and Natural Resources)	Larry Craig (R/ID)	<b>Hearing –</b>  Oversight hearing to examine implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.	Senior Officials from the Departments of Interior and Agriculture, state agencies, and the private sector	2:30 p.m. Room 366 Dirksen Office Building
<b>April 27 –</b>  Committee on Energy and Natural Resources	Pete Domenici (R/NM)	<b>Hearing –</b>  Oversight hearing on sustainable, low emission electricity generation	TBA	10:00 a.m. Room 366 Dirksen Office Building

## CONFERENCE COMMITTEE NEGOTIATIONS AND FLOOR VOTES

*No activities of interest to report.*

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